

1 HB427
2 147329-1
3 By Representative Scott
4 RFD: Education Policy
5 First Read: 07-MAR-13

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8 SYNOPSIS: This bill would establish the Educational
9 Accountability and Intervention Act of 2013.

10 This bill would clarify the authority of the
11 State Board of Education, through the State
12 Superintendent of Education, to exercise direct
13 control over the decision making and operational
14 functions of city and county boards of education
15 when such boards are placed under educational
16 intervention by action of the State Board of
17 Education.

18 This bill would also repeal existing
19 statutes that are in conflict with or are otherwise
20 inconsistent with this bill.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT
25

26 To establish the Educational Accountability and
27 Intervention Act of 2013; to establish a process by which the

1 State Board of Education, through the State Superintendent of
2 Education, may exercise direct control over the decision
3 making and operational functions of city and county boards of
4 education through educational intervention; to establish terms
5 and conditions governing the exercise of intervention
6 authority and the scope thereof, the roles and
7 responsibilities of city and county board of education
8 officials under intervention, and the rights of employees of
9 boards of education under intervention; and to repeal existing
10 statutes that are in conflict with or otherwise inconsistent
11 with this act.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. This act shall be known and may be cited
14 as the Educational Accountability and Intervention Act of
15 2013.

16 Section 2. The purposes of this act include all of
17 the following:

18 (1) To clarify and confirm the authority of the
19 State Superintendent of Education to assume and exercise
20 direct and comprehensive control over the decision making and
21 operational functions of city and county boards of education
22 when the demonstrated inability of such boards of education to
23 discharge administrative, operational, or instructional
24 functions threatens to deprive students of essential
25 educational services.

26 (2) To simplify and streamline the exercise of
27 decision making authority during educational intervention by,

1 among other things, eliminating distinctions between policy
2 making and administrative, academic, operational, financial,
3 and organizational decision making functions performed by city
4 and county boards of education that have impeded attainment of
5 intervention objectives to the detriment of the educational
6 process.

7 (3) To facilitate the implementation of such
8 organizational reforms and accountability measures as may be
9 necessary to restore and maintain stable and efficient
10 provision of sound and educationally appropriate services at
11 the local level, and to thereby enhance local and statewide
12 support for public education.

13 Section 3. For the purposes of this act, the
14 following terms shall have the following meanings:

15 (1) ACADEMIC PERFORMANCE and ACADEMIC CONDITIONS. As
16 used in subdivision (1) of Section 4, may include, but not be
17 limited to, definitions of the same or similar terms and
18 related criteria, circumstances, and conditions identified and
19 described elsewhere in the Code of Alabama 1975. The exercise
20 of intervention authority under this act is subject solely to
21 the substantive and procedural preconditions and requirements
22 set forth herein, the existence of any different, conflicting,
23 or inconsistent provisions elsewhere in the Code of Alabama
24 1975, notwithstanding.

25 (2) EDUCATIONAL INTERVENTION and EDUCATIONAL
26 OPERATIONS. All policy making, administrative, academic,
27 operational, financial, and organizational decisions and

1 functions that have a direct or indirect bearing on the
2 development or provision of academic, extracurricular, and
3 support services to students served by city and county boards
4 of education.

5 (3) PRIORITY SCHOOL. A school that has a majority of
6 its students scoring one or more grade levels below the
7 prescribed state-adopted student assessments or that is
8 designated as a priority school by the State Superintendent of
9 Education.

10 Section 4. The State Board of Education may
11 intervene in the educational operations of a city or county
12 board of education and thereby assume general and direct
13 control over all decision making and operational functions of
14 the city or county board of education under and subject to the
15 following terms and conditions:

16 (1) If the State Superintendent of Education
17 determines that a majority of the schools in the system are
18 priority schools, or the system is not in compliance with
19 Chapter 13A, Title 16, Code of Alabama 1975, or the
20 accreditation status of the system or a majority of the
21 schools in the system has been placed on probation, or
22 suspended, or revoked, or if any other formal disciplinary
23 action has been ordered by the accrediting authority, the
24 State Superintendent of Education shall issue a written notice
25 to the local superintendent of education and the presiding
26 officer of the city or county board of education to show cause
27 why educational intervention should not be implemented. The

1 notice shall specify the deficiencies within the operation of
2 the city or county board of education, the steps that are
3 required to be taken to correct the deficiencies, and a
4 reasonable timetable for completing the corrective measures,
5 which timetable may be extended by the State Superintendent of
6 Education. The notice shall require that the recipient board
7 provide a specific written response to the notice, which
8 response shall be filed with the State Superintendent of
9 Education not less than 21 calendar days after the date the
10 notice was issued, unless the time for filing the response is
11 extended by the State Superintendent of Education. In its
12 response, the city or county board of education may offer
13 reasons why intervention is not warranted or, in the
14 alternative, a specific plan and timetable for correcting the
15 deficiencies identified in the notice to show cause.

16 (2) If, based on the response of the city or county
17 board of education to the notice to show cause or other
18 relevant circumstances and considerations, the State
19 Superintendent of Education determines that educational
20 intervention is not warranted or should be deferred, the city
21 or county board of education shall be notified of such
22 determination.

23 (3) If, in light of the response of the city or
24 county board of education, the State Superintendent of
25 Education concludes that educational intervention is
26 nonetheless warranted, but that the plan proposed by the city
27 or county board of education for correcting the deficiencies

1 set forth in the notice is acceptable, with or without such
2 modifications as may be required by the State Superintendent
3 of Education, the city or county board of education shall be
4 notified of such determination. The plan, with any
5 modifications thereto that may be required by the State
6 Superintendent of Education, shall thereafter be implemented
7 according to its terms.

8 (4) If the approved plan is not implemented or if
9 the response to the notice to show cause does not include a
10 plan that, in the judgment of the State Superintendent of
11 Education, adequately addresses the deficiencies that prompted
12 issuance of the notice, the State Superintendent of Education
13 shall request in writing that the State Board of Education
14 approve a resolution authorizing the State Superintendent of
15 Education to intervene in the operations of the city or county
16 board of education. The request of the State Superintendent of
17 Education shall include a description of the conditions and
18 circumstances supporting the request, a copy of the response
19 of the city or county board of education to the notice to show
20 cause why educational intervention should not be implemented,
21 an explanation of why the response of the city or county board
22 of education to the notice to show cause does not adequately
23 address the deficiencies identified in the notice, and a
24 proposed plan for correcting the deficiencies. The city or
25 county board of education that is the subject of the request
26 shall be notified thereof by the State Superintendent of
27 Education and shall be provided with a copy of the request of

1 the State Superintendent of Education and any material
2 accompanying or submitted in support of the request. Before
3 any vote of the State Board of Education on the request, the
4 city or county board of education that is the subject of the
5 request shall be afforded an opportunity to demonstrate in
6 writing to the State Board of Education why such action is not
7 warranted or should not be approved and to appear before the
8 State Board of Education for such purpose prior to a vote
9 being taken on the request for educational intervention.

10 (5) The State Board of Education shall authorize
11 intervention under this act on the basis of the deficiencies
12 and supporting data cited in support of the request for
13 intervention authority of the State Superintendent of
14 Education and upon a finding that the city or county board of
15 education has demonstrated an unwillingness or inability to
16 voluntarily comply with the standards provided in subdivision
17 (1) and the requirements specified in the request of the State
18 Superintendent of Education. The resolution by which
19 educational intervention is authorized shall describe with
20 reasonable specificity the criteria or conditions that are
21 required to be satisfied by the city or county board of
22 education in order to be released from intervention. If the
23 State Board of Education approves a resolution authorizing
24 educational intervention, the State Superintendent of
25 Education may exercise plenary authority to make such
26 decisions or take such actions as he or she reasonably deems
27 necessary to correct the deficiencies that led to the request

1 for approval of intervention or that may be discovered in the
2 exercise of intervention authority. Educational intervention
3 authority may be exercised directly by the State
4 Superintendent of Education or indirectly through his or her
5 designee acting as a chief administrative officer who shall be
6 appointed by, report to, and serve in such capacity at the
7 pleasure and under the supervision of the State Superintendent
8 of Education. The chief administrative officer may act on
9 behalf of the State Superintendent of Education for all
10 purposes under this act. If the State Superintendent of
11 Education appoints a chief administrative officer, that
12 officer shall be designated by name in a resolution presented
13 to the State Board of Education.

14 (6) While a city or county board of education is
15 operating under educational intervention, the State
16 Superintendent of Education or the chief administrative
17 officer shall have the power and authority to act for and on
18 behalf of the city or county board of education and its
19 superintendent in all matters and for all purposes under the
20 Code of Alabama 1975. No decision, action, or undertaking made
21 or approved by the State Superintendent of Education or chief
22 administrative officer shall require the separate
23 recommendation, concurrence, or approval of any city or county
24 board of education or any official thereof in order to be
25 deemed final, valid, or enforceable. While under educational
26 intervention, a city or county board of education, with the
27 approval of the State Superintendent of Education or the chief

1 administrative officer, may meet according to a schedule and
2 agenda that are approved in advance by the State
3 Superintendent of Education or the chief administrative
4 officer and are subject to modification only at the direction
5 or with the express approval of the State Superintendent of
6 Education or the chief administrative officer. Otherwise, the
7 city or county board of education shall meet only at the call
8 of and for specific purposes approved by the State
9 Superintendent of Education or the chief administrative
10 officer. While under educational intervention, city and county
11 boards of education and their officials and employees shall
12 serve under the supervision and direction of the State
13 Superintendent of Education or the chief administrative
14 officer. The State Superintendent of Education or the chief
15 administrative officer may delegate to the employees of the
16 State Department of Education or city or county board of
17 education officials or employees such administrative authority
18 and responsibilities as they may deem necessary to ensure the
19 timely, practical, and efficient execution of normal
20 educational functions, and, at the expense of the city or
21 county board of education, may engage and direct the
22 activities of such consultants, specialists, or employees as
23 they deem necessary to achieve the objectives of the
24 intervention.

25 (7) Personnel actions that the State Superintendent
26 of Education or the chief administrative officer deem
27 necessary and appropriate to the attainment of intervention

1 objectives may be implemented directly by such officials. Such
2 actions shall be subject to otherwise generally applicable
3 statutory, regulatory, or policy-based prerequisites or
4 procedures, provided that any such personnel actions affecting
5 employees who have attained tenure or nonprobationary status
6 under Alabama law shall be conducted pursuant to Chapter 24C,
7 Title 16, Code of Alabama 1975, the Students First Act of
8 2011, except that the State Superintendent of Education shall
9 issue all notices required of the local superintendent of
10 education to the employee under that act and the hearing of
11 first instance shall be conducted by a hearing officer
12 appointed pursuant to subsection (g) of Section 16-24C-6, Code
13 of Alabama 1975. Intervention-related personnel actions shall
14 also be described by the State Superintendent of Education or
15 the chief administrative officer in a written report that
16 shall include the specific personnel actions to be taken and
17 an explanation of how such actions serve the attainment of one
18 or more intervention objectives. At the direction of the State
19 Superintendent of Education or the chief administrative
20 officer, and as soon as practicable following its issuance,
21 the report shall be entered into the minutes of the city or
22 county board of education and the nature of individual
23 personnel actions shall be suitably memorialized in the
24 personnel files of affected employees and in databases or
25 other records maintained for such purposes by the city or
26 county board of education. No delay or irregularity in the
27 transmittal or recordation of the foregoing report or related

1 data shall invalidate or impair the timely implementation of
2 intervention-related personnel actions as prescribed by the
3 State Superintendent of Education or the chief administrative
4 officer. Personnel actions that are deemed advisable or
5 appropriate but that are not identified as related to the
6 attainment of intervention objectives by the State
7 Superintendent of Education or the chief administrative
8 officer may be initiated and acted on by city or county board
9 officials. Such actions shall be taken in accordance with
10 Chapter 24C, Title 16, Code of Alabama 1975, the Students
11 First Act of 2011, or other generally applicable statutory
12 requirements, policies, and procedures if the proposed actions
13 would otherwise be subject to such statutes, policies, and
14 procedures and if they are first authorized by the State
15 Superintendent of Education or the chief administrative
16 officer.

17 (8) The State Superintendent of Education shall
18 report to the State Board of Education regarding the status of
19 intervention in the affected city or county system
20 periodically or at the request of the State Board of Education
21 and, in any event, not less than once every six months.

22 (9) A city or county board of education may be
23 released from educational intervention upon the adoption of a
24 resolution by the State Board of Education authorizing such
25 action. The resolution shall be considered by the State Board
26 of Education upon the written recommendation of the State
27 Superintendent of Education or upon presentation of a written

1 petition requesting such action duly executed by at least
2 two-thirds of the members of the city or county board of
3 education that is operating under educational intervention.
4 The petition shall set forth the grounds on which the petition
5 is based and may include any evidence that may be relevant to
6 consideration by the State Board of Education. Representatives
7 of the city or county board of education may also be heard in
8 connection with the petition, but no vote shall be taken on
9 the petition by the State Board of Education without first
10 soliciting the views of the State Superintendent of Education
11 regarding the merits of the petition.

12 Section 5. The State Superintendent of Education may
13 develop and issue regulations to implement the requirements of
14 this act.

15 Section 6. This act shall be construed to do all of
16 the following:

17 (1) Provide the State Superintendent of Education or
18 the chief administrative officer with broad discretion and
19 complete authority to make, direct, implement, and enforce
20 decisions, actions, and measures which, in his or her
21 judgment, are necessary and appropriate to the attainment of
22 the objectives of educational intervention and to accord the
23 fullest measure of deference to decisions and actions made by
24 such officials in furtherance of intervention goals and
25 objectives.

1 (2) Eliminate unnecessary delay in the
2 implementation of measures designed to attain intervention
3 goals and objectives.

4 (3) Protect vested and constitutionally based
5 employment rights through appropriate procedural safeguards
6 without impairing attainment of the goals and purposes of
7 educational intervention or of this act.

8 (4) Be cumulative, supplemental, and complementary
9 to other legislation that confers authority on the State Board
10 of Education and the State Superintendent of Education to
11 exercise control and supervision over the decision making and
12 operational functions of city and county boards of education,
13 and not to limit the scope, extent, or exercise of that
14 authority.

15 Section 7. Any city or county board of education
16 which, on the effective date of this act, is operating under
17 any form of intervention by virtue of a statute that is
18 repealed or superseded by this act shall remain subject to the
19 terms and provisions of the statute and the authority
20 conferred thereby on the State Board of Education, State
21 Superintendent of Education, and their designees until the
22 city or county board of education is released from
23 intervention.

24 Section 8. The various sections and provisions of
25 this act are severable, and should any part, provision,
26 section, or subsection hereof be held unlawful, invalid, or
27 unenforceable by any court of competent jurisdiction, such

1 holding shall not impair, invalidate, or otherwise affect the
2 terms or provisions of the act that are not the subject
3 thereof or invalidated thereby.

4 Section 9. All laws or parts of laws which conflict
5 with this act are repealed.

6 Section 10. This act shall become effective
7 immediately upon its passage and approval by the Governor or
8 its otherwise becoming law.