

1 SB9  
2 142690-2  
3 By Senator Holtzclaw  
4 RFD: Finance and Taxation Education  
5 First Read: 05-FEB-13  
6 PFD: 08/20/2012

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8 SYNOPSIS: Under existing law, the Flexible School  
9 Calendar Act of 2012 requires each local board of  
10 education to establish an academic school calendar,  
11 beginning with the 2012-2013 school year and ending  
12 with the last day of the third month of the  
13 2013-2014 school year, with the first day of  
14 instruction for students no earlier than the Monday  
15 two calendar weeks before Labor Day, unless August  
16 31 is a Monday, then on Monday, August 17, and the  
17 last day of instruction for students shall be no  
18 later than the Friday immediately before Memorial  
19 Day.

20 This bill would allow a local board of  
21 education to opt out of the temporary academic  
22 school calendar parameters by providing written  
23 notice to the State Superintendent of Education.

24 Amendment 621 of the Constitution of Alabama  
25 of 1901, now appearing as Section 111.05 of the  
26 Official Recompilation of the Constitution of  
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a  
2 new or increased expenditure of local funds from  
3 becoming effective with regard to a local  
4 governmental entity without enactment by a 2/3 vote  
5 unless: it comes within one of a number of  
6 specified exceptions; it is approved by the  
7 affected entity; or the Legislature appropriates  
8 funds, or provides a local source of revenue, to  
9 the entity for the purpose.

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

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT  
21

22 To amend Section 16-13-231, Code of Alabama 1975, as  
23 amended by Act 2012-482, 2012 Regular Session (Acts 2012, p.  
24 \_\_\_), the Flexible School Calendar Act of 2012; to allow a  
25 city or county board of education to opt out of the temporary  
26 academic school calendar parameters by providing written  
27 notice to the State Superintendent of Education; and in

1 connection therewith to have as its purpose or effect the  
2 requirement of a new or increased expenditure of local funds;  
3 and in connection therewith would have as its purpose or  
4 effect the requirement of a new or increased expenditure of  
5 local funds within the meaning of Amendment 621 of the  
6 Constitution of Alabama of 1901, now appearing as Section  
7 111.05 of the Official Recompilation of the Constitution of  
8 Alabama of 1901, as amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 16-13-231 of the Code of Alabama  
11 1975, is amended to read as follows:

12 "§16-13-231.

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

21 "(1) To aid in providing at least a 180 full  
22 instructional day minimum school term, or the hourly  
23 equivalent thereof, except as otherwise provided in paragraph  
24 c. of subdivision (1) of subsection (b); and,

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

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

4           "(1) REQUIREMENTS FOR PARTICIPATING IN FUND. In  
5 order for a local board of education to share in the  
6 apportionment of the Foundation Program Fund and to receive  
7 the maximum benefits therefrom, the board shall meet the  
8 following conditions:

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

25           "b. In the expenditure of all funds available for  
26 the Foundation Program as herein defined, the local board of

1 education shall as nearly as practicable provide the same  
2 length of term in all schools.

3 "c.1. Except as otherwise provided in this  
4 paragraph, the local board of education shall provide a school  
5 term of at least 180 full instructional days, or the hourly  
6 equivalent thereof, beginning with school year 2012-2013 and  
7 ending with the last day of the third month of the 2013-2014  
8 school year, or such part of that school term as can be  
9 maintained by using funds available and as defined by  
10 regulations of the State Board of Education. The local  
11 academic school calendar shall be annually established by the  
12 local board of education, within the parameters of  
13 subparagraph 3. In case the local board of education fails to  
14 operate any schools the minimum 180 full instructional day  
15 term, or the hourly equivalent thereof, or the minimum term as  
16 defined by the State Board of Education, the Foundation  
17 Program allowances of the local board of education shall be  
18 computed only for the actual period the schools are in session  
19 that school year.

20 "2. In extreme circumstances involving natural  
21 occurrences, health-related occurrences, or other extenuating  
22 circumstances that result in the cancellation of an  
23 instructional day, a local board of education may submit a  
24 plan for the approval of the State Superintendent of Education  
25 to replace cancelled instructional days by adjusting the  
26 school calendar to extend the hours of actual teaching time on  
27 specified instructional days. At any time the Governor

1 declares a state of emergency for any part of the state, any  
2 affected school system that is closed as a result and loses  
3 student days or employee days, or both, may appeal to the  
4 State Superintendent of Education for relief in fulfilling the  
5 local school calendar with respect to student days or employee  
6 days, or both, with no loss of income to employees.

7 "3. Beginning with the 2012-2013 school year and  
8 ending with the last day of the third month of the 2013-2014  
9 school year, a local board of education, in providing the  
10 minimum required number of instructional days or hours, shall  
11 have greater flexibility in establishing the school calendar  
12 by adjusting the days or extending the hours of actual  
13 teaching or instructional time provided on specified  
14 instructional days for the schools under the jurisdiction of  
15 the local board. The academic school calendar, established by  
16 the local board of education, shall include the minimum  
17 required number of instructional days or hours, with the first  
18 day of instruction for students no earlier than the Monday two  
19 calendar weeks before Labor Day, unless August 31 is a Monday,  
20 then on Monday, August 17, and the last day of instruction for  
21 students shall be no later than the Friday immediately before  
22 Memorial Day. A local board of education desiring to have its  
23 first day of instruction earlier than the Monday two calendar  
24 weeks before Labor Day or its last day of instruction for  
25 students later than the Friday immediately before Memorial Day  
26 may opt out of the temporary academic school calendar

1 parameters provided in this subparagraph by providing written  
2 notice to the State Superintendent of Education.

3 "d. The local board of education shall expend funds  
4 for teachers' salaries in accordance with a salary schedule  
5 adopted by the local board of education and approved by the  
6 State Superintendent of Education. The salary schedule shall  
7 be at least 100 percent of those salary amounts specified in  
8 the State Minimum Salary Schedule by cell.

9 "The local board of education shall allocate state  
10 and local Foundation Program funds to each school in an  
11 equitable manner, based on the needs of the students and the  
12 schools, as reflected in the current year's actual student  
13 populations, including at-risk students, students receiving  
14 special education services, and students enrolled in  
15 vocational/technical educational programs. The local board of  
16 education shall report annually to the State Board of  
17 Education on how all state and local funds for public  
18 education, including Foundation Program funds and capital  
19 outlay funds, have been allocated to each of its schools or  
20 area vocational centers.

21 "e. The local board of education shall submit to the  
22 State Superintendent of Education, under the regulations of  
23 the State Board of Education, the following:

24 "1. A proposed building program which sets out in  
25 detail the location of all present and proposed buildings;  
26 which indicates proposed educational centers and grades to be



1 taught at these centers and which provides schools for all  
2 children of the local board of education.

3 "2. Except for those city boards of education not  
4 maintaining a transportation system, a proposed transportation  
5 program showing the proposed routing of buses and the  
6 condition of all roads to be used for transportation.

7 "3. A proposed professional development program  
8 which sets out in detail the professional development needs of  
9 employees of the local board of education.

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

12 "5. A proposed program for the provision of services  
13 to students with disabilities and gifted students in  
14 compliance with applicable state and federal laws.

15 "6. A proposed program for the provision of  
16 vocational educational services in compliance with applicable  
17 state and federal laws.

18 "7. A proposed program for the provision of  
19 educational services to at-risk students in compliance with  
20 applicable state and federal laws. The proposed program for  
21 at-risk students shall include the provision that all funds  
22 allocated shall be spent for at-risk students.

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

1           "(2) DETERMINING COST OF FOUNDATION PROGRAM. In  
2 determining the cost of the Foundation Program, the  
3 Legislature, based on the recommendation of the State Board of  
4 Education, shall proceed to find the following allowable costs  
5 for each local board of education: Teachers' salaries, fringe  
6 benefits, classroom instructional support, and other current  
7 expense. The rate per employee set by the Legislature for  
8 teachers' retirement and employees' health insurance shall be  
9 in effect for the entire fiscal year and shall not be  
10 increased by the Teachers' Retirement System or the Public  
11 Education Employees' Health Insurance Board, except by further  
12 action of the Legislature.

13           "a. The Foundation Program allowance for salaries of  
14 teachers shall be determined as follows: The number of teacher  
15 units allowed in Section 16-13-232 for each local board of  
16 education shall be multiplied by the amount or amounts per  
17 teacher unit, which amounts shall be based on the average  
18 salaries for each major classification required by the  
19 operation of the State Minimum Salary Schedule established by  
20 the Legislature in the Education Trust Fund appropriation bill  
21 and adopted by the State Board of Education. In recommending  
22 to the Governor and the Legislature the State Minimum Salary  
23 Schedule the State Board of Education shall give due  
24 consideration to degree level, certification, and public  
25 education experience. Any teacher, including, but not limited  
26 to, a vocational education teacher, currently under contract

1 in excess of 187 days shall not have the term or salary of his  
2 or her contract reduced as a result of this article.

3 "b. The Foundation Program allowance for fringe  
4 benefits shall be determined by multiplying a uniform  
5 percentage times the amount of teachers' salaries allowed in  
6 paragraph a. above or by multiplying a fixed rate depending on  
7 the type of fringe benefit. The fringe benefits allowances  
8 shall include amounts for the employer's contribution for  
9 teachers' retirement, health insurance, Social Security,  
10 Medicare, unemployment compensation, personal leave, and sick  
11 leave. The fringe benefits allowance may include allowances  
12 for other fringe benefits as may be approved by the State  
13 Legislature. The State Legislature shall seek the input and  
14 advice of appropriate agencies and individuals in setting  
15 allowances. The Teachers' Retirement System and the Public  
16 Education Employees' Health Insurance Board shall recommend to  
17 the Legislature, on or before the first legislative day of  
18 each regular session of the Legislature, the rate for the  
19 following fiscal year. The Legislature shall set the rate in  
20 the annual appropriation bill.

21 "c. The Foundation Program allowance for classroom  
22 instructional support shall be determined by multiplying a  
23 uniform amount times the number of teacher units allowed in  
24 Section 16-13-232. The uniform amount shall include allowances  
25 for library enhancement, classroom materials and supplies,  
26 professional development, and technology. The library  
27 enhancement appropriation shall be for K-12 Public School

1 Library/Media Centers and is an absolute appropriation. Other  
2 expenditures may include book binding, repair, CD Roms,  
3 computer software, computer equipment, cataloging,  
4 audio-visual materials, newspapers, magazines, recordings, and  
5 video tapes. The uniform amount may include allowances for  
6 other classroom instructional support as may be approved by  
7 the State Board of Education. The Foundation Program allowance  
8 for classroom instructional support shall also include an  
9 allowance for textbooks which shall be determined on a per  
10 pupil basis. The number of pupils shall be determined by the  
11 number of pupils in average daily membership during the first  
12 20 scholastic days after Labor Day of the preceding school  
13 year. The State Board of Education shall recommend to the  
14 Governor the amount for each cost factor included in classroom  
15 instructional support on or before December 1 of the current  
16 fiscal year for the ensuing fiscal year.

17 "d. The Foundation Program allowance for other  
18 current expense shall be determined by multiplying a uniform  
19 amount by the number of earned units. The uniform amount shall  
20 be recommended by the State Board of Education to the Governor  
21 on or before December 1 of the current fiscal year for the  
22 ensuing fiscal year.

23 "e. The State Board of Education may cause, from  
24 time to time, a study of allowances for teachers' salaries,  
25 fringe benefits, classroom instructional support, and other  
26 current expense of local boards of education to be conducted

1 and, based on the results of the study, may propose any  
2 necessary changes to the Governor and Legislature.

3 "f. The total cost of the Foundation Program for any  
4 local board of education shall be the total allowed for  
5 teachers' salaries, for fringe benefits, for classroom  
6 instructional support, and for other current expense. The  
7 allowances herein to the local boards of education shall be  
8 expended subject to all applicable laws, rules, and  
9 regulations; however, the total funds calculated in the total  
10 cost of the Foundation Program for teachers' salaries shall be  
11 expended for salaries within the instructional program.

12 "(3) DETERMINING FUNDS AVAILABLE TO PROVIDE  
13 FOUNDATION PROGRAM.

14 "a. The funds available to meet the cost of the  
15 Foundation Program shall be appropriated by the Legislature  
16 taking into consideration an amount of local effort required  
17 on the part of each local board of education. The required  
18 local effort charged against each local board of education for  
19 its share of the cost of the Foundation Program shall be as  
20 follows:

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

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

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

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

7           "b. After calculating the total cost of the  
8 Foundation Program for each local board of education, the  
9 state allocation from the Education Trust Fund is calculated  
10 by subtracting the local effort required by this section from  
11 the total cost. Although the cost of the Foundation Program is  
12 calculated for each school, the one sum allocation for each  
13 local board of education shall flow monthly to the local board  
14 of education. The state funds for the Foundation Program shall  
15 be allotted by the State Board of Education consistent with  
16 State Board of Education rules and regulations."

17           Section 2. Although this bill would have as its  
18 purpose or effect the requirement of a new or increased  
19 expenditure of local funds, the bill is excluded from further  
20 requirements and application under Amendment 621, now  
21 appearing as Section 111.05 of the Official Recompilation of  
22 the Constitution of Alabama of 1901, as amended, because the  
23 bill requires expenditures only by a school board.

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