

1 HB431
2 137052-2
3 By Representatives Beech, Patterson, Chesteen, Black, England,
4 Scott and Fincher
5 RFD: Education Policy
6 First Read: 28-FEB-12

ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

Relating to local boards of education; to establish the School Board Governance Improvement Act of 2012; to provide legislative intent; to require prospective board members to publicly affirm certain principles of educational governance; to specify the responsibilities of board members; to provide for the implementation of training and continuing education in boardsmanship for all board members; to provide for certain sanctions to be imposed upon board members upon a finding that the action or inaction of a board member constitutes neglect of duty or willful misconduct; to require the State Board of Education and local boards of education to adopt a model code of conduct for board members; and to amend Sections 16-8-1 and 16-11-2, Code of Alabama 1975, relating to the qualifications of members of city and county boards of education.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) This section shall be known and may be cited as the School Board Governance Improvement Act of 2012.

1 (b) The Legislature finds and declares all of the
2 following:

3 (1) That the purpose of this section is to enhance
4 the effectiveness of public education governance in Alabama
5 through the establishment of training requirements,
6 boardsmanship standards, and accountability measures that are
7 designed to promote informed deliberations and decisions, to
8 revise the qualifications for serving as a member of a local
9 board of education, to provide for a code of conduct for each
10 member of a local board of education in order to better ensure
11 that any decision or action of a local board of education is
12 based on the interests of students or the system, and to
13 foster the development and implementation of organizational
14 practices that are designed to promote broad support of the
15 public schools.

16 (2) A local board of education is the legally
17 constituted body that governs a local school system, promotes
18 student learning, and prepares students to be college and
19 career ready. A local school board, and not individual board
20 members, is entrusted with this responsibility. To function
21 effectively, board members, both individually and
22 collectively, must operate with the highest degree of
23 accountability to these responsibilities and their fiduciary
24 duty to act in the best interests of the local school system,
25 without self-interest. A board member, as an individual, shall
26 satisfy minimum qualifications to serve, shall comply with a
27 code of conduct, and shall be required to participate in

1 orientation and ongoing training. To meet the goal of
2 comprehensive board member education and proficiency,
3 governance standards should be clearly reflected in board
4 member training with a focus on roles and responsibilities,
5 student and school performance standards, and the delineation
6 of each member's role as a public official holding public
7 trust.

8 (c) For the purposes of this section, the following
9 terms shall have the following meanings:

10 (1) BOARDSMANSHIP. The effective discharge of duties
11 as a member of a local board of education in keeping with the
12 highest standards of stewardship and principles of public
13 service as provided in this section.

14 (2) LOCAL BOARD OF EDUCATION. A city or county board
15 of education whether elected or appointed.

16 (d) (1) In conjunction with and as a precondition to
17 the installation of any elected or appointed member of a local
18 board of education, and in addition to all other requirements
19 imposed by law, prospective members shall be required for each
20 term of office to affirm publicly and in writing all of the
21 following principles of educational governance:

22 a. That each decision, action, and vote taken or
23 made as a member of a local board of education shall be based
24 solely on the needs and interests of students or the system.

25 b. That no decision, action, or vote shall be taken
26 or made to serve or promote the personal, political, or
27 pecuniary interests of the member.

1 c. That each decision, action, and vote shall be
2 based on the interests of the school system as a whole.

3 d. That the views of all members of the local board
4 of education and of the local superintendent of education
5 shall be considered before making a decision or taking an
6 action on any measure or proposal before the local board of
7 education.

8 e. That, except to the extent otherwise provided by
9 law, each member of a local board of education shall take
10 formal action upon the written recommendation of and in
11 consultation with the local superintendent of education, and
12 may not individually or jointly attempt to direct or corrupt
13 the operations of the school system in a manner that is
14 inconsistent with the discharge of the statutory functions and
15 responsibilities of the local superintendent of education.

16 f. That each member of a local board of education
17 shall actively promote public support for the school system
18 and a sound statewide system of public education, and shall
19 endorse ideas, initiatives, and programs that are designed to
20 improve the quality of public education for all students.

21 g. That each member of a local board of education
22 shall attend scheduled meetings and actively participate in
23 school system functions, activities, and training programs
24 that promote quality boardsmanship unless good cause is shown.

25 (2) In addition to those duties specifically
26 enumerated in the Code of Alabama 1975, a local board of
27 education shall have all of the following duties:

1 a. In concert with the local superintendent of
2 education, to establish a vision for the school system by
3 adopting goals that address student needs, advance student
4 performance, and monitor implementation of policies and
5 programs by reviewing data.

6 b. To adopt written policies and programs, upon the
7 recommendation of the local superintendent of education, to
8 further the educational goals of the system and respond to
9 system needs.

10 c. To act on personnel recommendations submitted by
11 the local superintendent of education in a timely manner,
12 based on student needs and system finances, without regard to
13 personal preferences or political interests.

14 d. In concert with the local superintendent of
15 education, to consider and approve operating budgets for the
16 system aligned with the goals and objectives of the local
17 board of education.

18 e. To advocate for the needs, resources, and
19 interests of public school students and refer stakeholders and
20 constituents to the local superintendent of education so that
21 these issues can be addressed by school system personnel.

22 f. These duties should not be construed to limit or
23 change the duties of local boards of education as found in the
24 Code of Alabama 1975.

25 (e) In order to further the implementation of sound
26 principles of boardsmanship within and among the local boards
27 of education in the state, the State Superintendent of

1 Education shall develop continuing education and training
2 programs for the members of the local boards of education to
3 enhance the understanding of the role of each member in
4 assuring the effective provision of educational services. The
5 programs shall be developed in cooperation with the Alabama
6 Association of School Boards pursuant to Section 16-1-6, Code
7 of Alabama 1975.

8 (f) Any member of a local board of education who
9 fails to satisfy the standards of boardsmanship as provided in
10 this section, or other statutory duty or obligation, under
11 circumstances that constitute neglect of duty or willful
12 misconduct, may be subject to the following sanctions:

13 (1) Formal censure or reprimand upon an affirmative
14 vote of a majority of the members of the local board of
15 education on which he or she serves. No such action shall be
16 taken unless the member, who is the subject of the proposed
17 action, is provided at least 30 days' advance written notice
18 of the proposed action by the secretary of the local board of
19 education. The notice shall be issued only upon an affirmative
20 vote of a majority of the members of the whole board of
21 education, shall specify the reasons for the proposed action,
22 and shall state that the member shall be afforded an
23 opportunity to respond orally or in writing to the notice
24 before the vote of the local board of education on the
25 proposed action is taken.

26 (2) Upon the referral of a written complaint by a
27 majority vote of the applicable local board of education, or

1 when, in the judgment of the State Superintendent of
2 Education, sufficient cause exists to do so, and subject to
3 the conditions hereinafter specified, the State Superintendent
4 may investigate serious and substantial allegations of neglect
5 of duty, misconduct, or breach of duty on the part of any
6 member or members of a local board of education. On the basis
7 of the investigation, the State Superintendent of Education
8 may either decline to pursue formal sanctions or issue a
9 written notice to the board members whose conduct is in
10 question, which notice shall specify the proposed imposition
11 of any sanctions that are contemplated as a result of the
12 investigation. The notice shall also describe with reasonable
13 particularity the neglect of duty, misconduct, or other breach
14 of legal duty upon which any proposed sanction is based. The
15 board member shall have at least 30 days to show cause in
16 person or in writing why he or she should not be subject to
17 the proposed sanction or to otherwise object to the proposed
18 sanction. Upon request, the board member shall be granted a
19 hearing before the State Superintendent of Education, or his
20 or her designee, for the purpose of contesting any proposed
21 sanction.

22 (3) After the close of the investigation, review,
23 and hearing authorized by this section, the State
24 Superintendent of Education may recommend approval of any of
25 the following sanctions to the State Board of Education:

26 a. A formal censure or reprimand of the board
27 member.

1 b. For any board member who fails to meet mandated
2 training and attendance requirements, the member shall be
3 subject to disqualification from eligibility for future
4 appointment, reappointment, or election to any local board of
5 education in the state.

6 c. For a board member whose conduct is found by the
7 State Superintendent of Education to constitute neglect of
8 duty or willful misconduct, the member shall be subject to
9 disqualification from eligibility for future appointment,
10 reappointment, or election to any local board of education in
11 the state.

12 (4) Nothing in this subsection shall be deemed to
13 preclude a negotiated resolution of any action that may be
14 proposed or initiated by the State Superintendent of Education
15 under this section, provided that such resolution is suitably
16 memorialized, executed, made a matter of public record, and is
17 consistent with the purposes of this section.

18 (5) No sanction shall be imposed on the basis of the
19 exercise of personal, political, or other rights of a board
20 member that are protected by the United States Constitution or
21 by any state or federal statute.

22 (6) No sanction by the State Superintendent of
23 Education, other than as may be imposed by written agreement
24 with the board member, shall be effective until it is approved
25 by majority vote of the State Board of Education.

26 (g) The State Board of Education shall adopt a model
27 code of conduct for members of local boards of education by

1 January 1, 2013. Before April 1, 2013, each local board of
2 education shall adopt a code of conduct that includes, at a
3 minimum, the model code of conduct adopted by the State Board
4 of Education. The State Superintendent of Education shall
5 develop and issue regulations to implement the requirements of
6 this section, including any regulations deemed necessary and
7 appropriate to ensure that procedures to be followed in
8 connection with the imposition of sanctions authorized under
9 this section conform to applicable legal standards.

10 (h) This section is cumulative and in addition to
11 any other provision of law governing the training,
12 performance, and accountability of local boards of education
13 and members of local boards of education in the State of
14 Alabama.

15 Section 2. Sections 16-8-1 and 16-11-2 of the Code
16 of Alabama 1975, are amended to read as follows:

17 "§16-8-1.

18 "(a) The county board of education shall be composed
19 of five members, who shall be elected by the qualified
20 electors of the county.

21 "(b) County boards of education unless otherwise
22 provided by law may use the provisions of this subsection to
23 establish single member election districts with one board
24 member elected from each district. School boards exercising
25 this option may establish five or seven such districts. Such
26 plan shall be considered only after two weeks public notice
27 has been given, outlining generally the school districts under

1 consideration. The members so elected ~~must,~~ or appointed in
2 the event of a vacancy, shall be residents of the school
3 ~~district in which election is sought.~~ Such residency shall
4 have been established at least one year before the general
5 election at which the candidate is to be elected, or appointed
6 in the event of a vacancy. Whenever a member of a county board
7 of education moves his or her domicile from the district he or
8 she represents, he or she shall cease to be a member of the
9 county board of education, and a vacancy shall occur. The
10 member shall provide notice of the move to the secretary of
11 the local board of education before the commencement of
12 business at the first meeting of the local board of education
13 following the move. The boundaries of such single member
14 districts shall be determined by a majority vote of the county
15 board of education. The county board of education shall
16 apportion the districts according to the last federal
17 decennial census for the county utilizing the principle of
18 equal representation. Thereafter, each county board of
19 education choosing to implement single member election
20 districts shall reapportion those districts within six months
21 following the publication of the results of each federal
22 decennial census. ~~They shall be persons of good moral~~
23 ~~character, with at least a fair elementary education, of good~~
24 ~~standing in their respective communities and known for their~~
25 ~~honesty, business ability, public spirit and interest in the~~
26 ~~good of public education. No member of the county board of~~
27 ~~education shall be an employee of said board; provided, that~~

1 ~~in counties having populations of not less than 96,000 nor~~
2 ~~more than 106,000 according to the most recent federal~~
3 ~~decennial census, not more than one classroom teacher employed~~
4 ~~by the board may serve as a board member and also as a~~
5 ~~teacher. Members shall not be required to hold teachers'~~
6 ~~certificates.~~

7 "(c) No person shall be eligible for election or
8 appointment as a member of a county board of education unless
9 he or she satisfies all of the following qualifications:

10 "(1) Is a person of good moral character.

11 "(2) Has obtained a high school diploma or its
12 equivalent.

13 "(3) Is not employed by that county board of
14 education.

15 "(4) Is not serving on the governing board of a
16 private elementary or secondary educational institution.

17 "(5) Is not on the National Sex Offender Registry or
18 the state sex offender registry.

19 "(6) Has not been convicted of a felony.

20 "§16-11-2.

21 "(a) The provisions of this chapter shall apply to
22 city boards of education unless otherwise provided by local
23 law pursuant to Amendment 659 to the Constitution of Alabama
24 of 1901, or any other provision of the Constitution of Alabama
25 of 1901.

26 "(b) The general administration and supervision of
27 the public schools and educational interest of each city shall

1 be vested in a city board of education, to be composed of five
2 members who shall be residents of the city, and who shall not
3 be members of the city council or commission. In any Class 4
4 municipality which has adopted a mayor-council form of
5 government pursuant to Chapter 43B (commencing with Section
6 11-43B-1) of Title 11, the city board of education may be
7 composed of seven members.

8 ~~"(c) The members of the city board of education, who~~
9 ~~shall, except as hereinafter provided, serve without~~
10 ~~compensation, shall be chosen solely because of their~~
11 ~~character and fitness, but no person shall be appointed or~~
12 ~~elected to this board pursuant to this section who is subject~~
13 ~~to the authority of the board. In cities having populations of~~
14 ~~not less than 50,000 nor more than 60,000 according to the~~
15 ~~most recent federal decennial census, and the City of Attalla,~~
16 ~~not more than one classroom teacher employed by the board may~~
17 ~~serve as a board member and also as a classroom teacher.~~

18 ~~"(d) Each member of the city board in cities having~~
19 ~~a population of 300,000 or more according to the last or any~~
20 ~~subsequent federal census shall receive fifty dollars (\$50)~~
21 ~~for each meeting of the board, whether special, regular, or~~
22 ~~executive session, attended by him or her. No member shall~~
23 ~~receive more than one hundred fifty dollars (\$150) during any~~
24 ~~one month. This compensation shall be paid from the city~~
25 ~~school funds in the manner provided for paying out of the city~~
26 ~~school funds.~~

1 "(c) No person shall be eligible for election or
2 appointment as a member of a city board of education unless he
3 or she satisfies all of the following qualifications:

4 "(1) Is a person of good moral character.

5 "(2) Has obtained a high school diploma or its
6 equivalent.

7 "(3) Is not employed by that city board of
8 education.

9 "(4) Is not serving on the governing board of a
10 private elementary or secondary educational institution.

11 "(5) Is not on the National Sex Offender Registry or
12 the state sex offender registry.

13 "(6) Has not been convicted of a felony.

14 "(d) In those cities where the members of the city
15 board of education are elected or appointed to represent a
16 district, whenever a member of a city board of education moves
17 his or her domicile from the district he or she represents, he
18 or she shall cease to be a member of the city board of
19 education, and a vacancy shall occur. The member shall provide
20 notice of the move to the secretary of the city board of
21 education before the beginning of business at the first
22 meeting of the city board of education following the move.

23 "(e) Any city or town which has had the general
24 administration and supervision of the public schools and
25 educational interests of the city or town vested in a city
26 board of education for a period of 20 years or more prior to
27 August 15, 1951, may, except as may be provided by law,

1 continue to have general administration and supervision of the
2 public schools and educational interest under a local board of
3 education regardless of any past or future federal census."

4 Section 3. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Education Policy
..... 28-FEB-12

Read for the second time and placed
on the calendar 1 amendment 08-MAR-12

Read for the third time and passed
as amended..... 22-MAR-12

Yeas 92, Nays 3, Abstains 0

Greg Pappas
Clerk